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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7692/2010

THDC INDIA LIMITED

..... Petitioner

Through: Mr. Neeraj Malhotra and Mr. Rupal
Luthra, Advs.

Versus

ARUN KUMAR JAIN

..... Respondent

Through: Mr. S.K. Jain and Ms. Khushboo
Bhardwaj, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.01.2016

1. The petition impugns the order dated 30th September, 2010 of the Central Information Commission (CIC) constituted under the Right to Information Act, 2005 (RTI Act) allowing the second appeal of the respondent information seeker and directing the petitioner to furnish the merit list of the promotion procedure in which the respondent had participated.

2. Notice of the petition was issued and vide *ex-parte* ad-interim order dated 1st December, 2010, the operation of the impugned order was stayed.

3. It is the contention of the counsel for the petitioner that the merit list is prepared only of selected candidates and though the petitioner has no objection to furnish the merit list showing the rank obtained by the selected

candidates in the competitive process held but the disclosure of the marks obtained by each of the candidate, which are also contained in the merit list and in computation of which marks 70% weightage is given to the Annual Confidential Reports (ACRs) of the previous years of the competing candidates, would require the third party procedure provided in Section 11 of the Act to be followed.

4. The counsel for the respondent information seeker states that furnishing of the merit list without marks would not serve any purpose.

5. The counsel for the petitioner has fairly stated that the petitioner will follow the third party procedure under Section 11 of the Act, as far as the disclosure of the marks obtained by each of the candidates in the merit list is concerned. Reliance in this regard is placed on the judgment dated 8th July, 2014 in W.P.(C) No.903/2013 titled ***THDC India Ltd. Vs. R.K. Raturi***.

6. The counsel for the respondent is agreeable thereto.

7. The counsel for the petitioner then contends that before following the third party procedure, the Central Public Information Officer (CPIO) will have to also take a decision, whether he intends to disclose the third party information to the respondent or not.

8. I am of the opinion that the successful participants in a competition held and the result of which competition is subject to judicial review and / or departmental appeal, cannot shy away from disclosure to the unsuccessful candidates of the total marks obtained by them in the said competition and which marks have been computed by the public authority and have not been furnished by the competing candidates to the public authority. There thus

does not appear to be any need for CPIO of petitioner to first decide whether to provide third party information to petitioner or not.

9. Accordingly, the petition is disposed of with the direction that the CPIO of the petitioner to within one month of this order initiate the third party information procedure provided in Section 11 of the Act for the disclosure of the marks obtained by the selected candidates in the competitive process in which the respondent had participated and relating to which the present petition is filed and to pass a reasoned order in that regard within four months of today.

10. The litigation expense of Rs.5,000/- lying deposited in this Court be released to the respondent.

No costs.

RAJIV SAHAI ENDLAW, J.

JANUARY 08, 2016

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